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10/070,528	12/02/2002	Peter Planki	2406400-2	7215

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EXAMINER
LOHN, JOSHUA A

ART UNIT	PAPER NUMBER
2114	

MAIL DATE	DELIVERY MODE
11/30/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

	Application No.	Applicant(s)
Office Action Summary	10/070,528	PLANKI ET AL.
	Examiner	Art Unit	
	Joshua A. Lohn	2114	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on <u>15 November 2007</u>.

2a)☒ This action is **FINAL**.   2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) <u>1-17</u> is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) <u>1-17</u> is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on <u>02 December 2002</u> is/are: a)☒ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☒ All b)☐ Some * c)☐ None of:

       1.☒ Certified copies of the priority documents have been received.

       2.☐ Certified copies of the priority documents have been received in Application No. _____.

       3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)

2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
    Paper No(s)/Mail Date _____.

4) ☐ Interview Summary (PTO-413)
    Paper No(s)/Mail Date. _____ .

5) ☐ Notice of Informal Patent Application

6) ☐ Other: _____.

DETAILED ACTION

Response to Arguments

Applicant's arguments filed 11/15/2007 have been fully considered but they are not

persuasive.

With respect to applicant's arguments that Atkinson "is only capable of monitoring and

controlling the computer system as a whole", the examiner respectfully disagrees. Atkinson

clearly discloses the monitoring and control of individual components in addition to the system

as a whole, see figure 4, where the fan and the CPU are components that are monitored, since

status is known, and controlled, through speed adjustments.

With respect to applicant's further arguments that Atkinson "does not individually control

components to avoid damage to those components", the examiner respectfully disagrees.

Atkinson discloses component control to avoid damage to that component in the adjustment of

the CPU speed, col. 5, lines 19-24, where the CPU speed is reduced in a higher temperature

environment to avoid damage to the CPU.

In view of the above arguments, the rejections of the claims remain as reiterated below.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the

basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed
in the United States before the invention by the applicant for patent or (2) a patent granted on an application for
patent by another filed in the United States before the invention by the applicant for patent, except that an
international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this

subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-5, 7, 9, and 16 are rejected under 35 U.S.C. 102(e) as being anticipated by Atkinson, United States Patent, 6,029,119, filed January 16, 1996.

As per claim 1, Atkinson discloses a method for an automated monitoring and controlling the operational performance of a computer or processing system for detecting at least two operational parameters of individual components (Atkinson, col. 1, lines 36-39, and col. 6, lines 41-43, where example operational parameters are the fan speed and fast charging status) and/or at least two environmental parameters of environmental components of the computer or processor system (Atkinson, col. 3, line 16, through col. 4, line 15, where the indirect inputs act as the environmental components, and col. 6, lines 1-35 and fig. 5B, where the environmental parameters include air flow obstruction, peripheral components and temperature states). Atkinson also teaches comparing the detected operational parameters and environmental parameters with predetermined limit values (Atkinson, col. 4, lines 35-51, col. 5, lines 1-18, and figures 3 and 4); determining, if predetermined limit values are exceeded or fallen below of by one or several of said detected operational parameters and environmental parameters (Atkinson, col. 4, lines 52-62). Atkinson also discloses determining an operational event on basis of said limit values that have been exceeded or fallen below of (Atkinson, col. 5, lines 19-30 and figure 4, where the output results are the operational events based on the input limit values); selecting a reaction corresponding to said determined operational event from a number of predetermined reaction patterns, wherein said number of predetermined reaction patterns includes reactions that control individually each of a plurality of discrete components being monitored to maintain or prolong the serviceability of the monitored system and protect to the greatest possible extent

active calculation processes as well as their data bases and results and to avoid damage to the

discrete component being controlled by a reaction (Atkinson, col. 5, lines 19-30 and figure 4,

where the reactions are the output controls for the fan, CPU, charging, and peripheral inactivity.

These reactions individually control the components of the monitored system and work to

maintain the operability of the processing system by ensuring continued CPU operation and

peripheral use by avoiding excessive environmental conditions). Atkinson also discloses

transmitting a control command to alter the operational performance corresponding to said

selected reaction to said computer or processor system (Atkinson, col. 4, lines 52-62, where the

output controls for the components are the control commands to alter operational performance).

As per claim 2, Atkinson discloses that the detected operational parameters or

environmental parameters are absolute measured values as well as the temporal change of said

measured value (Atkinson, col. 3, lines 16-17, and col. 3, lines 66-67).

As per claim 3, Atkinson discloses that besides the transmission of the control command

corresponding to the selected reaction also a corresponding information signal is transmitted

(Atkinson, col. 3, lines 16-19, where the interrupt alarm is an informational signal).

As per claim 4, Atkinson discloses a device for an automated monitoring and controlling

the operational performance of a computer or processor system with first sensors for detecting at

least two operational parameters of individual components of said computer or processor system

(Atkinson, col. 1, lines 36-39, and col. 6, lines 41-43, where example operational parameters are

the fan speed and fast charging status); and/or second sensors for detecting at least two

environmental parameters of said computer or processor system (Atkinson, col. 3, line 16,

through col. 4, line 15, where the indirect inputs act as the environmental components, and col. 6,

lines 1-35 and fig. 5B, where the environmental parameters include air flow obstruction,

peripheral components and temperature states); a monitoring unit for comparing said detected

operational and/or environmental parameters with limit values stored in a first storage as well as

for detecting, if one or several limit values are being exceeded or fallen below of (Atkinson, col.

4, line 35, through col. 5, line 18, and figures 3 and 4). Atkinson also discloses means for

generating a determined operational event message on basis of said limit values that have been

exceeded or fallen below of (Atkinson, col. 5, lines 19-30 and figure 4, where the output results

are the operational events based on the input limit values); and a control unit for receiving said

operational event message as well as for selecting and transmitting a control command

corresponding to said operational event message to said computer and processor system from a

storage containing a number of predetermined reaction patterns (Atkinson, col. 6, lines 36-54,

where control commands inherently exist in the ability to adjust the system parameters as

indicated in the response table of figure 4), wherein said number of predetermined reaction

patterns includes control commands that control a plurality of the individual components being

monitored to maintain or prolong the serviceability of the monitored system and protect to the

greatest possible extent active calculation processes as well as their data bases and results and to

avoid damage to the discrete component being controlled by a control command (Atkinson, col.

5, lines 19-30, where the fan and CPU are components being monitored and controlled by the

output results shown in figure 4. These reactions individually control the components of the

monitored system and work to maintain the operability of the processing system by ensuring

continued CPU operation and peripheral use by avoiding excessive environmental conditions).

As per claim 5, Atkinson discloses that said detected operational parameters or environmental parameters are absolute measured values as well as the temporal changes of said measured value (Atkinson, col. 3, lines 16-17, and col. 3, lines 66-67).

As per claim 7, Atkinson further discloses the device of claim 4, characterized in that said device comprises a transmission means for transmitting a message corresponding to said operational event message and/or to said transmitted control command (Atkinson, col. 3, lines 16-24, where the interrupt alarm is a message corresponding to the event).

As per claim 9, Atkinson further discloses the device of claim 5, characterized in that said device comprises a transmission means for transmitting a message corresponding to said operational event message and/or to said transmitted control command (Atkinson, col. 3, lines 16-24)

As per claim 16, Atkindson discloses a method for an automated monitoring and controlling of the operational performance of a computer or processor system, comprising the following steps: (a) detecting at least two operational parameters of individual components and/or at least two environmental components of the computer or processor system, wherein said operational parameters and said environmental parameters are quantitatively measurable parameters (Atkinson, col. 1, lines 36-39, and col. 6, lines 41-43, where example operational parameters are the fan speed and fast charging status; Atkinson, col. 3, line 16, through col. 4, line 15, where the indirect inputs act as the environmental components, and col. 6, lines 1-35 and

fig. 5B, where the environmental parameters include air flow obstruction, peripheral components and temperature states, where these parameters are measured to determine operating states, figures 5 and 6); (b) comparing the detected operational parameters and/or environmental parameters with predetermined limit values (Atkinson, col. 4, lines 35-51, col. 5, lines 1-18, and figures 3 and 4); (c) determining, if predetermined limit values are exceeded or fallen below of by one or several of said detected operational parameters and environmental parameters (Atkinson, col. col. 4, lines 52-62); (d) determining an operational event on basis of a combined evaluation of said limit values that have been exceeded or fallen below of (Atkinson, col. 5, lines 19-30 and figure 4, where the output results are the operational events based on the input limit values); (e) selecting a reaction corresponding to said determined operational event from a number of predetermined reaction patterns wherein said number of predetermined reaction patterns includes reactions that control individually each of a plurality of discrete components · being monitored to maintain or prolong the serviceability of the monitored system and protect to the greatest possible extent active calculation processes as well as their data bases and results and to avoid damage to the discrete component being controlled by a reaction (Atkinson, col. 5, lines 19-30 and figure 4, where the reactions are the output controls for the fan, CPU, charging, and peripheral inactivity. These reactions individually control the components of the monitored system and work to maintain the operability of the processing system by ensuring continued CPU operation and peripheral use by avoiding excessive environmental conditions); and (f) transmitting a control command to alter the operational performance corresponding to said selected reaction to said computer or processor system (Atkinson, col. 4, lines 52-62, where the output controls for the components are the control commands to alter operational performance).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 6 and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Atkinson

in view of Skeie, United States Patent number 5,500,940, published March 19, 1996.

As per claim 6, Atkinson fails to disclose the addition of an optical or acoustic output

means for outputting a message.

Skeie discloses a device that comprises an optical or acoustic output means for outputting

a message corresponding to an operational event message and/or transmitted control command

(Skeie, col. 6, lines 63-67, where user notification would inherently be an optical or acoustic

output).

It would have been obvious to one skilled in the art at the time of the invention to include

the user notification means of Skeie in the invention of Atkinson.

This would have been obvious because Atkinson is interested in the effects of escalating

problems and how to repair them (Atkinson, figure 4). Atkinson does not mention any aspect of

how the detection and repair would affect the user. Skeie also discloses an interest in escalating

problems in a computer system (Skeie, col. 6, lines 8-26). Skeie further states the importance of

data availability to the user (Skeie, col. 6, lines 53-55). The solutions disclosed by Atkinson

would alter data availability through solutions in a similar way to the failures of Skeie. It would

have been obvious to give the user the important availability information, provided by Skeie, in the system of Atkinson to allow the user to be aware of any potential problems form the solutions provided by Atkinson.

As per claim 10, Atkinson and Skeie further disclose the device of claim 6, characterized in that said device comprises a transmission means for transmitting a message corresponding to said operational event message and/or to said transmitted control command (Atkinson, col. 3, lines 16-24).

Claims 8, 11, 13, 14, and 17 rejected under 35 U.S.C. 103(a) as being unpatentable over Atkinson in further view of Tobita et al., United States Patent number 5,781,434, published July 14, 1998.

As per claims 8, 11, 13, and 14, Atkinson fails to disclose the limitation of the device being separate from the monitored system.

Tobita discloses a device that is part of a computer which is separate from the computer or processor system to be monitored (Tobita, col. 8, line 53 through col. 9, line 13, and figure 1, where the monitoring device computer is the service processor board, element 10, and the processor system to be monitored in the system board, element 30).

It would have been obvious to one skilled in the art at the time of the invention to use the separate monitoring system of Tobita in the invention of Atkinson.

This would have been obvious because Atkinson does not require that the management system be part of the processor system being monitored (Atkinson, col. 2, lines 50-51), and Tobita discloses a system where this separation provides added benefit. The invention of

Atkinson would have benefited from the separation of Tobita, because the invention of Tobita

provides for similar levels of monitoring (Tobita, col. 8, line 53 through col. 9, line 13), while

adding the ability to allow for remote access and restarting of the failed system board (Tobita,

col. 9, lines 28-57). This ability to restart a failing system adds benefit to the system of

Atkinson, which can only limit or shut down a failing processor, not successfully repair it.

As per claim 17, Atkinson fails to disclose the limitation of the device being separate

from the monitored system and allowing system re-activation.

Tobita discloses the device as claimed in claim 4, wherein the device operates separately

from the computer or processor system monitored by the device (Tobita, col. 8, line 53 through

col. 9, line 13, and figure 1, where the monitoring device computer is the service processor

board, element 10, and the processor system to be monitored in the system board, element 30),

such that the computer or processor system can be re-activated by the device after the computer

or processor system has been shut down (Tobita, col. 9, lines 27-57, where the restart inherently

includes the shut down and re-activation).

It would have been obvious to one skilled in the art at the time of the invention to use the

separate monitoring system of Tobita in the invention of Atkinson.

This would have been obvious because Atkinson does not require that the management

system be part of the processor system being monitored (Atkinson, col. 2, lines 50-51), and

Tobita discloses a system where this separation provides added benefit. The invention of

Atkinson would have benefited from the separation of Tobita, because the invention of Tobita

provides for similar levels of monitoring (Tobita, col. 8, line 53 through col. 9, line 13), while

adding the ability to allow for remote access and restarting of the failed system board (Tobita, col. 9, lines 28-57). This ability to restart a failing system adds benefit to the system of Atkinson, which can only limit or shut down a failing processor, not successfully repair it.

Claims 12 and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Atkinson and Skeie in further view of Tobita.

As per claims 12 and 15, Atkinson and Skeie fail to disclose the limitation of the device being separate from the monitored system.

Tobita discloses a device that is part of a computer which is separate from the computer or processor system to be monitored (Tobita, col. 8, line 53 through col. 9, line 13, and figure 1, where the monitoring device computer is the service processor board, element 10, and the processor system to be monitored in the system board, element 30).

It would have been obvious to one skilled in the art at the time of the invention to use the separate monitoring system of Tobita in the invention of Atkinson and Skeie.

This would have been obvious because Atkinson does not require that the management system be part of the processor system being monitored (Atkinson, col. 2, lines 50-51), and Tobita discloses a system where this separation provides added benefit. The invention of Atkinson would have benefited from the separation of Tobita, because the invention of Tobita provides for similar levels of monitoring (Tobita, col. 8, line 53 through col. 9, line 13), while adding the ability to allow for remote access and restarting of the failed system board (Tobita, col. 9, lines 28-57). This ability to restart a failing system adds benefit to the system of Atkinson and Skeie, which can only limit or shut down a failing processor, not successfully repair it.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure is provided on form PTO-892.

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.
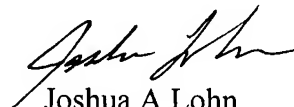
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joshua A. Lohn whose telephone number is (571) 272-3661. The examiner can normally be reached on M-F 8-4.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Scott Baderman can be reached on (571) 272-3644. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent

Application Information Retrieval (PAIR) system. Status information for published applications

may be obtained from either Private PAIR or Public PAIR. Status information for unpublished

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Joshua A Lohn
Patent Examiner
Art Unit 2114